

MINUTES

OF THE

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Proceedings at a Court Martial,

ASSEMBLED

ON BOARD HIS MAJESTY'S SHIP ORION,

In Portsmouth Harbour, the 7th of April 1796,

FOR ENQUIRING INTO THE CONDUCT OF

THE HONOURABLE

WILLIAM CORNWALLIS,

VICE ADMIRAL OF THE RED:

As taken by Sir GEORGE JACKSON, Bart.

JUDGE ADVOCATE OF HIS MAJESTY'S FLEET.

Published by Order of the Right Honourable the Lords Commissioners of the Admiralty.

L O N D O N:

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MINUTES

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Proceedings at a Court Martial

ASSEMBLED

FOR THE PURPOSE OF

IN THE COURT OF

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S I R,

THE following Sheets contain the Minutes of the Proceedings at the Court Martial assembled and held for the Trial of the Honble. Vice Admiral CORNWALLIS, on the 7th and 8th of this Month; which you will please to lay before the Lords Commissioners of the Admiralty, from,

S I R,

Your most obedient
humble Servant,

GEO. JACKSON,

Judge Advo^c

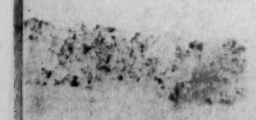
Upper Grosvenor-Street,
11 April 1796.

Evan Nepean, Esq; Secretary of the Admiralty.

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The following table contains the names of the
persons of the County of ... and ...
of the ...
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M I N U T E S

OF THE

PROCEEDINGS at a Court Martial, assembled on board His Majesty's Ship Orion, in Portsmouth Harbour, the 7th of April 1796, for inquiring into the Conduct of the Honourable *William Cornwallis*, Vice Admiral of the Red.

P R E S E N T,

The Earl HOWE, Admiral of the Fleet, PRESIDENT.

Sir PETER PARKER, Bart.	-	-	} Admirals of the White.
R ^t . Hble ALEX ^r Lord BRIDPORT, K.B.	-	-	
GEORGE VANDEPUT, Esq;	-	-	} Vice Admirals of the White.
Sir ALAN GARDNER, Bart.	-	-	
JOHN COLPOYS, Esq;			Vice Admiral of the Blue.
Sir ROGER CURTIS, Bart.	-	-	} Rear Admirals of the Red.
HENRY HARVEY, Esq;	-	-	
RICH ^d RODNEY BLIGH, Esq;	-	-	
CHARLES MORICE POLE, Esq;			Rear Admiral of the Blue.
Captain CHARLES EDMUND NUGENT.			
. . . CHARLES POWELL HAMILTON.			
. . . EDMUND DOD.			

VICE ADMIRAL CORNWALLIS was brought in by the Marshal of the Admiralty, and Audience admitted.

The Court and Judge Advocate were sworn in, agreeable to Act of Parliament.

Then the Order for Trial was read, as follows:

By the COMMISSIONERS for executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

WHEREAS, by a Commission bearing Date the 10th February last, we appointed the Honble. William Cornwallis, Vice Admiral of the Red, to be Commander in Chief of His Majesty's Ships and Vessels employed and to be employed at Barbadoes and the Leeward Islands, and in the Seas adjacent; and by our Order, dated the 25th of the same Month, directed the said Vice Admiral to put to Sea the first Opportunity of Wind

Royal Sovereign.
 Alfred.
 Undaunted.
 Prompte.
 Beaver, Slo.
 Terror, Bomb.

and Weather with His Majesty's Ships and Vessels named in the Margin, taking under his Convoy such Transports, Storeships, Victuallers, and Trade, as might be at Spithead bound to the West Indies, and proceed with them as expeditiously as possible, consistent with the Security of the said Transports, Storeships, Victuallers, and Trade, to Barbadoes, and on his Arrival at that Island take under his Command such of His Majesty's Ships and Vessels as he might find on that Station, and carry into Execution the Instructions which accompanied our said Order, as well as such standing or unexecuted Orders as might be delivered to him by Admiral Sir John Laforey, and also such Directions as he might from Time to Time receive from us for his further Proceedings: And whereas the said Vice Admiral, after putting to Sea in pursuance of our said Orders, and proceeding to the Distance hereinafter mentioned, acquainted us, by his Letter to our Secretary, dated on board the Royal Sovereign the 14th of this Month, with his Return to Spithead, having thought that the visible Damage which the Ship (meaning the Royal Sovereign) had sustained by the Bellisarius Transport having run athwart her Hawse, particularly the Copper being stripped off, and the Stem laid bare Eight or Nine Feet under Water, rendered the Ship unfit to proceed to the West Indies until it was repaired; That he had therefore, as soon as he had seen such Part of the Convoy as remained with him after the Accident well to the Southward and Westward of Cape Finisterre, and the Weather had moderated so as to enable him to have a Communication with the Ships, directed Captain Louis of the Minotaur (which Ship, together with the Mars and Quebec, it appears by his Journal he had taken under his Command) to take Charge of them as far as Barbadoes: And whereas, upon receiving the above-mentioned Letter, we judged it expedient that the said Vice Admiral would proceed to his Station with as little Delay as possible, and therefore directed him, by our Order of the 15th Instant, to take His Majesty's Ship Astræa under his Command, to hoist his Flag on board her, and, putting to Sea without a Moment's Loss of Time, proceed in her, with all possible Dispatch to Barbadoes, carrying into Execution the Instructions he had already received from us as Commander in Chief of His Majesty's Ships and Vessels at that and the Leeward Islands: And whereas the said Vice Admiral, in consequence of our last-mentioned Order, acquainted us, by his Letter to our Secretary, dated the Day following, with his Readiness to proceed in the Royal Sovereign the Moment her Defects should be made good, if that would meet with our Approbation, but that the very precarious State of his Health obliged him to decline going out in a small Frigate, a Stranger to every Person on board, without Accommodation, or any Comfort whatever: And whereas we think fit that a Court Martial shall be assembled for the Purpose of inquiring into the Conduct of the said Vice Admiral in not proceeding to Barbadoes pursuant to our Orders to him above mentioned, either in the Royal Sovereign, or some other Ship of War in Company with him, and under his Command; in returning to Spithead, and after his Return to that Anchorage, in declining to proceed to the above-mentioned Island in the Astræa, according to the Order given to him by us for that Purpose; we send your Lordship herewith the Vice Admiral's above-mentioned Letters of the 14th and 16th Instant, and also the Journal referred to in One of them, together with attested Copies of our Orders to him, dated the 25th of February and 15th Instant; a Copy of a Letter from our Secretary to the said Vice Admiral, of the last-mentioned Date; and a Report which has been made to us of the State of the Defects of the Royal Sovereign; and we do hereby require and direct you to assemble a Court Martial accordingly as soon as conveniently may be, which Court (your Lordship being President) is hereby required and directed to inquire into the Conduct of the said Vice Admiral the Honourable William Cornwallis, in returning to Spithead, as above set forth, and to try him for the same; to try him for Disobedience of our Order of the 25th of February last, in not proceeding to Barbadoes as expeditiously as possible, consistent with the Security of the Transports, Storeships, Victuallers, and Trade under his Convoy; and also to try him for Disobedience of our Order to him of the 15th Instant, by declining to proceed to Barbadoes in the Astræa, as therein directed.

Given under our Hands the 31st March 1796.

To
 The Earl Howe,
 Admiral and Commander
 in Chief of His Majesty's Fleet.

By Command of their Lordships,
Evan Nepean.

Signed,
 C. S. PYBUS.
 H. SEYMOUR.
 PH. STEPHENS.
 J. GAMBIER.
 W. YOUNG.

The

The Judge Advocate then read to the Court, the List which had been delivered to him of Names of Persons, whom the Prisoner had desired should be called upon to give Evidence.

He afterwards gave Notice, that no Person intended to be examined should remain in Court while another Witness was under Examination.

The Instructions from the Lords of the Vice Admiralty to the Admiral, dated 25th of February (the Receipt of which he admits) directing him to proceed to Barbadoes, were next read, as follows :

By the COMMISSIONERS for executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

WHEREAS, by our Commission bearing date the 10th of this Month, we have appointed you Commander in Chief of his Majesty's Ships and Vessels employed and to be employed at Barbadoes and the Leeward Islands, and in the Seas adjacent, and have in consequence put his Majesty's Ships and Vessels named in the inclosed List under your Command; and whereas we intend that you shall proceed forthwith to the above-mentioned Station with the said Ships and Vessels, and with such Transports, Storeships, Victuallers, and Trade as may be at Spithead bound to the West Indies; you are hereby required and directed to make Enquiry for, and take under your Convoy such Ships and Vessels of that Description as may be bound as above mentioned, and ready to accompany you, accordingly, and putting to Sea the first Opportunity of Wind and Weather, proceed as expeditiously as possible, consistent with the Security of the said Transports, Store Ships, Victuallers, and Trade, to Barbadoes; where you are to take under your Command such of His Majesty's Ships and Vessels as you may find on that Station, and carry into Execution the Instructions which you will receive herewith, as well as such standing or unexecuted Orders as may be delivered to you by Admiral Sir John Laforey, and also such Directions as you may from Time to Time receive from us, for your further Proceedings. Given under our Hands, the 25th February 1796;

SPENCER.
ARDEN.
PH^p STEVENS.

To
The Hon^{ble} William Cornwallis,
Vice Admiral of the Red, &c. &c. &c.
at Spithead.

By Command of their Lordships,
Evan Nepean.

List of His Majesty's Ships and Vessels referred to in the Order to the Hon^{ble} Vice Admiral Cornwallis, dated the 25th Feb^r 1796.

ROYAL SOVEREIGN,
ALFRED,
UNDAUNTED,
PROMPTE,
BEAVER Sloop,
TERROR Bomb.

The Vice Admiral having admitted his Signature to a Letter to Mr. Nepean, dated at Spithead the 14th of March, the same was read, as follows:

Sir,

I request that you will be pleased to acquaint the Lords Commissioners of the Admiralty, that the Bellifarius Transport having run athwart Hawse of the Royal Sovereign, as their Lordships will see by the Journal (which I have the Honour of sending for their Inspection)

tion) I thought the visible Damage which the Ship had sustained, particularly the Copper having been stripped off, and the Stem laid bare Eight or Nine Feet under Water, rendered the Ship unfit to proceed to the West Indies until it was repaired; as soon therefore as I had seen that Part of the Convoy which remained with me after the Accident, well to the Southward and Westward of Cape Finisterre, and the Weather moderated to enable me to have a Communication with the Ships, I directed Captain Louis of the Minotaur to take Charge of them as far as Barbadoes, after which he was to return Home.—I should not have sent that Ship (as she was not fitted or intended by their Lordships for that Service) if the other Ships had been with me, but it will be seen by my Journal, that the Undaunted and Beaver Sloop parted from me the Night of the Accident, and the Alfred and Quebec the following Night. The Terror Bomb did not join me from Spithead, being detained, as I was told, to repair some Damage which she had received by a Ship getting on board of her.

As no Intimation had reached me of their Lordship's Intention that the Mars, Minotaur, and Quebec, should accompany me to a certain Distance, I feel myself the more obliged to Sir Charles Cotton and Captain Louis for having kept with me. The Mars has returned with me.

I have the Honour to be,

Sir,

Your most obedient
humble Servant,

W. CORNWALLIS.

Royal Sovereign,
at Spithead.
14th March 1796.

The Vice Admiral's Journal of his Proceedings at Sea, from 28th February to 14th of March inclusive, was then read.

JOURNAL of the Honourable WILLIAM CORNWALLIS, Vice Admiral of the Red, and Commander in Chief of His Majesty's Ships and Vessels at the Leeward Islands, from the 28 February to the 14 March.

Month and Year.	Day.	Wind.	Course.	Dist.	Lat. in.	Long. in.	Bearings and Distance at Noon.	REMARKS.
February 1796. Sunday.	28	East.					Bembridge Point, S. S. W. distant 4 Miles.	Fresh Winds and cloudy. In the Morning I made the Signal to weigh, and stood out. In passing St. Helens, Rear Admiral Harvey saluted me, which I returned. Several of the Ships which had received Instructions got under weigh, and came out, but some of the India Ships, and the Undaunted and Terror Bomb, did not join me, and therefore I brought to for the Night. Captains Sir Charles Cotton and Thomas Louis, of the Mars and Minotaur, having weighed from St. Helens, joined me, and came on board. In the Morning I observed the Undaunted had joined me, with the Quebec, from St. Helens.

Month and Year.	Day.	Wind.	Course.	Dist.	Lat. in.	Long. in.	Bearings and Distance at Noon.	REMARKS.
Febr 1796.								
Monday continued.	29	East.					Peverell Point, N. $\frac{1}{2}$ W. distant 4 or 5 Leagues.	Fresh Winds and clear. I gave the Captains of the Mars, Minotaur, and Quebec, Orders to put themselves under my Command, with the Order of Sailing, and distinguishing Pendants. I gave sealed Rendezvous to the Ships of War going with me, and Orders to the Captains of the Mars, Minotaur, and Quebec, to keep Company with me until further Order, after which I bore up, the whole Number in Company amounting to Eighty-eight Ships under Convoy. Captain Warner, of the Beaver Sloop, informed me, that Lieutenant Edwin Charlton Harris, of that Sloop, had been left behind.
March.								
Tuesday continued.	1	E. N. E. N. E. E. N. E.	S. 56. W.	44.	49.45 N.	4.02 W.	Start Point, N. E. $\frac{1}{2}$ N. distant 10 Leagues.	Fresh Winds and cloudy. The Wind freshening at Nine, the Maintopfail, which was the only Sail set, was hauled, as I conceived we went too fast for the Merchant Ships. A little before 10, I had sent for Captain Whitby, and just as he had opened the Door to come down the Ladder, he heard the Lieutenant from Forward call "hard a Starboard," which he directed to be done accordingly. It seems the Bellifarius Transport had run athwart Hawse, though there was a Light at the Bowsprit End, as well as the others on board the Royal Sovereign. The Bowsprit went between her Fore Mast and Main Mast. The Helm having been put a Starboard, occasioned the Ships striking in a flanting Direction; the Shock was not great, though we were going about Six Knots. It was a considerable Time before we could get clear of her, which was done at last by backing, but not until she had lost all her Masts, except the Fore Mast and Bowsprit. As soon as we were clear, I made the Signal to bring to. The Jib Boom and Spritsail Yard of the Royal Sovereign were carried away, with the Knee of the Head. The Starboard Cathead was damaged, as well as the best Bower Anchor Stock. It was too dark to see with any Certainty, during the Night, what Damage the Ship had sustained. It came on to blow very hard before Morning. The Ship did not appear to make more Water than what might be expected from the Gale; I therefore thought it most for the Service to bear up, and continue my Course to get the Convoy out of the Channel. It blew so hard, and there was so much Sea, that I could not have Communication with any of the Ships. The Line of Battle Ships and Quebec only were in Company. Whilst the Ships were on board each other, One hundred and Four Foreign Troops, with Eight Officers,

Month and Year.	Day.	Wind.	Course.	Dist.	Lat. in.	Long. in.	Bearings and Distance at Noon.	REMARKS.
March 1796.								
Tuesday.	1							Officers, the Surgeon, and Five Women, in all One hundred and Eighteen, got on board; some of them miserably bruised; One Man died soon after he came on board. Mr. Barge, the Master of the Ship, Two Mates, the Carpenter, and a few of his Men, also came on board. The Account the Master gives is, that he had left the Deck only a few Minutes, the Ship in a good Situation as he thought, but judging from the Alteration in the Motion of the Ship, that she had not continued so, he ran upon Deck, and found his Ship athwart Hawse of the Royal Sovereign. The Mate, who was left upon Deck, says, he went forward to lower the Foretopfail, and told the Man at the Helm, who was a Foreigner, to port the Helm, instead of which he put it a Starboard.
Wednesday.	2	E. N. E. East. E. N. E. E. by N.	S. 61 W.	164.	48, 24.	7, 14.	Ushant, N. 87 E. distant 28 Leagues.	These Twenty-four Hours strong Gales and squally, with Sleet, and a heavy Sea. At Four I brought to for the Ships to come up, and before dark bore up again, with all Sails handed, Thirty-seven Sail in Company. In the Morning I perceived the Alfred and Quebec had parted Company from me, but on what Account I cannot comprehend. At Seven in the Morning I brought to for Three Hours, to give Time for any Ships to come up, which might be aftern. The Weather was thick, with Squalls, blowing fresh, and a great Sea. The Mars, Minotaur, and Twenty-two Sail under Convoy, Four of them East India Ships.
Thursday.	3	N. by E. E. N. E. N. E. N. E. by E.	S. 40 W.	172.	46, 10.	9, 58.	Cape Finisterre S. 9 E. distant 67 Leagues.	Strong Gales and Cloudy. I made Signals to the Mars and Minotaur to carry Lights to prevent Separation. Upon examining, it did not appear that the Bowspit was damaged; another Jib Boom and Spritsail Yard was got out. I made Signals to Ships of the Convoy going a-head to keep in my Wake:—and during the Night Muskets were frequently fired to stop them.
Friday.	4	N. E. N. by E. N. E. by E.	S. 43 W.	126.	44, 34.	11, 59.	Cape Finisterre S. 49 E. distant 52 Leagues.	The former Part fresh Winds and Cloudy, with Squalls, latter more moderate. I made a Signal to the Mars to speak a Sloop to the Northward, and a large Ship appearing to the S. S. E. I made the Minotaur's Signal to reconnoitre, but she was not able to get near enough, without a Risk of separating, and therefore I called her back. Another of those poor Foreigners, who came on board from the Bellisarius very much bruised, died this Day.

Month and Year.	Day.	Wind.	Course.	Dist.	Lat. in.	Long. in.	Bearings and Distance at Noon.	REMARKS.
March 1796. Saturday.	5	N. E. N. E. by N. N. E.	S. 44 W.	98.	43, 19.	13, 36.	Madeira, S. 14 W. distant 220 Leagues.	First Part, fresh Winds; the latter Part, light Winds and clear. At Half past Noon, the Minotaur being got a considerable Distance off, I again called her in by Signal, lest she should part Company, having before made a Signal to the Mars to go between me and her to repeat Signals. I directed the Mars, by Signal, to take her Station in the Order of Sailing. The Minotaur made me a Signal for a Sail W. S. W. and the Mars one S. W. I made the Signal before Sunset for each Ship to carry a Light to prevent Separation. The Weather being moderate in the Morning, I brought to, and in a Boat examined the Ship forward. She appeared to have received much more Damage than I expected. I sent for the Carpenters of the Ships; and in the mean Time distributed the Foreign Soldiers (who had come on board from the Bellifarius) to the different Transports in Company; Major General Graham having given his Opinion that they should proceed, which I had asked in consequence of an Application from the Commanding Officer of those who came on board, for them to return to England.
Sunday.	6	N. N. E. N. E. N. E. by N. S. E. Calm.	S. 18 W.	30.	42, 47.	13, 48.	Cape Finisterre, N. 88 W. distant 64 Leagues.	First Part, light Winds and clear; the latter Part calm. Several of the Convoy stretching a-head, and upon the Starboard Beam, I made the Signal for them to keep in my Wake, and for those astern to make more Sail. The Mars, Minotaur, and Twenty-two Sail of the Convoy in Company.
Monday.	7	S. W. W. S. W. Vrble.	S. 29 W.	35.	42, 19.	14, 11.	Madeira, S. 13 W. distant 199 Leagues.	First Part, light Airs and clear; then fresh Winds with Rain; latter Part, light Airs and cloudy. During the Night several Musquets were fired, to keep the Convoy from going a-head. A Signal was made from the Mars, for seeing a Sail, W. by S.; I made a Signal to Sir Charles Cotton to reconnoitre, but as he had got some Distance, and it fell little Wind, I called him in. I made a Signal to the Minotaur to come within Hail.
Tuesday continued.	8	N. E. E. S. E. S. E. S. E. by E.	N. 23 E.	67.	43, 21.	13, 35.	Uthant, N. 49. E. Distant 157 Leagues.	First Part, light Airs and clear; the middle and latter Part, strong Gales and cloudy. Being to the Southward of Cape Finisterre, and, I imagine, pretty well clear of any Ships of Force (if the Enemy should have any at Sea) and the Royal Sovereign not appearing to me to be in a State to proceed to the West Indies, (it was visible that the

Month and Year.	Day.	Wind.	Course.	Dist.	Lat. in.	Long. in.	Bearings and Distance at Noon.	REMARKS.
March 1796.								the Stem was laid bare Eight or Nine Feet under Water) I thought as the most material Point (the getting the Convoy out in the fair Way) was accomplished, that it was most advisable for me to return with the Royal Sovereign, to get the Damage she had sustained (by the Bellifarius running foul of her) repaired, before she proceeded, and therefore I took the Opportunity of a Calm, to explain my Intention to the Masters of all the Ships under Convoy; and making a Signal to Captain Louis to come on board, I directed him, in the Minotaur, to take Charge of the Transports, Store Ships, Victuallers, and Trade, then in Company, and any he might fall in with during his Passage, and see them safe to Barbadoes, after which he was to return to Spithead, the Minotaur not having been fitted for Foreign Service, and Captain Louis acquainted me, that she had been on Shore several Times, and that he apprehended the false Keel, and Part of the Copper was off her Bottom. I ordered Captain Louis to receive the Landmen, who had been put on Board by Admiral Sir Peter Parker, from the Prince George, and I wrote to the Commanding Officer for the Time being in the West Indies, acquainting him for what Purpose they were sent out. I also directed Captain Louis to receive and victual Captain Dobree of Woolwich, during his Passage to join his Ship. I gave Sir Charles Cotton, of the Mars, Directions to keep Company with me, and a sealed Rendezvous, and just before dark parted from the Convoy.
Wednesday continued.	9	S. E. $\frac{1}{2}$ E. S. E. S. E. by E. E. S. E. S. W.	N. 15 E.	83	44,41	13,05	Uphant, N. 55 E. distant 133 Leagues.	First and Middle Parts, strong Gales and squally, latter more moderate. The Mars having carried away her Maintopfail Yard, had got to Leeward, I bore up to join her, and afterwards, as it blew very hard with thick rainy Weather, I lay to with a close-reefed Maintopfail and Storm Stayfais; before Daylight the Wind came round to the South West, and then I bore away, with the Mars in Company.
Thursday.	10	S. W. by S. S. S. W. West. W. N. W. W. by N. W. by S. W. by N.	N. 52 E.	130	46,00	10,38	Uphant, N. 56 E. distant 90 Leagues.	First Part, fresh Winds and squally, with heavy Rain at Times.—The latter Part light Winds and hazy. Captain Whitby having represented to me, that the Royal Sovereign was in much Want of Junk, and that the best Bower Cable was worn out and unfit for its proper Use, requesting me that I would order a Survey on the same for that Purpose.

Month and Year.	Day.	Wind.	Course.	Dist.	Lat. in.	Long. in.	Bearings and Distance at Noon.	REMARKS.
March 1796.								Purpose, I directed it to be surveyed accordingly.—I made a Signal to the Mars before Dark, to keep near me, to prevent Separation during the Night.
Friday.	11	S. W. by W. W. S. W. W. by S. S. W. by W. S. W.	N. 46 E.	122	47,20	8,30	Ushant, N. 63 E. distant 51 Leagues. Scilly Lighthouse, N. 24 E. distant 57 Leagues.	First Part, moderate Winds and clear, the middle and latter fresh Winds and cloudy, with Rain at Times.—The best Bower Anchor Stock had been broken to Pieces, when the Transport ran foul of the Ship, the Anchor was now got upon the Fore-castle, and new stocked. A Dogger passing the Starboard Bow, I made a Signal to Sir Charles Cotton to examine her; he afterwards made the Signal, that it was a Friend, and hoisted Danish Colours.
Saturday continued.	12	S. W. by W. S. W. by S.	N. 27 E.	146	49,25	6,56	Scilly Lighthouse, N. 18 E. distant 10 Leagues.	First Part moderate and cloudy, middle Part fresh Gales and squally, with Rain, latter Part a fresh Wind with very hazy Weather. The Mars having brought to, founded, and they made me a Signal, that they had not gained Ground. At Twelve o'Clock I brought to, and got Ninety Fathoms; after which I made sail again, having first made the Signals to the Mars. At Eight o'Clock I made a Signal to the Mars to examine a strange Sail, which was done, and Sir Charles Cotton made me the Signal of a Friend under Swedish Colours;—at Noon a Sail was seen upon the Larboard Bow.
Sunday.	13	S. S. W. S. W. by W. S. S. W. S. W. by S. S. S. W. South.	N. 76 E.	115	49,53	4,13	Start Point, N. 55 E. distant 9 Leagues.	First Part fresh Winds and hazy, middle and latter moderate and hazy. At Two I made a Signal for Sir Charles Cotton to look out E. N. E. The Weather being very hazy, I made a Signal to him to shorten Sail, and lay by until I came up with him, and afterwards to recal the Mars; a Signal was made on board that Ship, which was thought to be for seeing Land; in the Morning I asked the Question by Signal, the Answer was Scilly N. E. by E. but I apprehend it was not Land, as it appeared by the Sounding we were farther up Channel.
Monday.	14	S. S. W. S. by E. S. S. E. South. S. W.						Moderate and hazy. Running in for Spithead. W. CORNWALLIS. Royal Sovereign, at Spithead, 14 of March 1796.

An attested Copy of Mr. Nepean's Answer to the Vice Admiral's afore-mentioned Letter, dated the 15th of March, and of an Order of the same Date from the Lords of the Admiralty, directing him to proceed to Barbadoes in the *Astræa*, were then read; also the Letter of Reply from the Vice Admiral to Mr. Nepean, dated the 16th of March; as follows:

Admiralty Office, 15th March 1796.

Sir,

I received this Morning, by Express, your Letter to me of Yesterday's Date, acquainting me, for the Information of my Lords Commissioners of the Admiralty, with your Arrival at Spithead in His Majesty's Ship the *Royal Sovereign*, accompanied by the *Mars*, having found it necessary to return thither in consequence of the Damage which the first-mentioned Ship had sustained by the *Bellifarius* Transport running on board her, having seen the Convoy which sailed under your Protection well to the Southward and Westward of Cape Finisterre, from whence it had proceeded to its Destination under the Escort of the *Minotaur*, the Captain of which Ship had been ordered by you, after seeing the Convoy in Safety as far as Barbadoes, to make the best of his Way back to England, the rest of the Ships of War destined for the West Indies having previously separated from you; I lost no Time in communicating to their Lordships your said Letter, and I have it in Command from them to express to you the great Regret they feel at your Return into Port, after getting so far to the Southward as you mention; more especially as they are of Opinion, that after you had ascertained the Condition of the *Royal Sovereign*, you might have shifted your Flag into one of the other Ships under your Orders, and proceeded to the Station on which you have been appointed to command, and where your Presence could not fail to be essentially necessary.

Under the present Circumstances, their Lordships judge it expedient that you should forthwith hoist your Flag and proceed to Barbadoes on board the *Astræa*, taking with you your Secretary, and Flag Lieutenant: and they have in consequence instructed the Captain of that Ship to receive you on board, and follow your Orders.

With respect to the supernumerary Seamen and Marines now in the *Royal Sovereign*, their Lordships will give Directions for their being removed into the Ships about to sail with Rear Admiral Christian, to be afterwards disposed of in the West Indies as you may think proper. I am, &c.

EVAN NEPEAN.

Honble. Vice Admiral *Cornwallis*, Spithead.

By the COMMISSIONERS for executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

HAVING ordered the Captain of His Majesty's Ship *Astræa*, now at Spithead, to receive you, your Secretary, Flag Lieutenant, and Servants on board, and putting himself under your Command, follow your Orders for his further Proceedings; you are hereby required and directed to take him and the said Ship under your Command accordingly, and hoisting your Flag on board her, put to Sea without a Moment's Loss of Time, and proceeding in her with all possible Dispatch to Barbadoes, carry into Execution the Instructions you have already received or may receive from us, as Commander in Chief of His Majesty's Ships and Vessels at that and the Leeward Islands.

Given under our Hands, the 15th March 1796;

H. SEYMOUR,
P. STEPHENS,
W. YOUNG.

To

The Hon^{ble} *William Cornwallis*,
Vice Admiral of the Red,
&c. &c. &c.
at Spithead.

By Command of their Lordships,
Evan Nepean.

Sir,

Sir,

I HAD the Honour of receiving your Letter of Yesterday's Date, and an Order from the Lords Commissioners of the Admiralty for me to hoist my Flag on board the *Astræa* Frigate, and proceed without Loss of Time to Barbadoes.

I beg of you, Sir, to assure their Lordships that I am extremely sorry to find they do not approve of my returning into Port in the Royal Sovereign. I was not vain enough to imagine my immediate Presence in the West Indies, was of so much Importance as their Lordships are pleased to do me the Honour to suppose, particularly as there is an Officer there of higher Rank than myself, who probably, or for any Thing I am acquainted with, might have staid some Time after my Arrival. I did not shift my Flag on board the *Mars* or *Minotaur*, because I was not willing to meddle more with those Ships than was absolutely necessary, conceiving it to be their Lordships Inclination, as they had not given me the smallest Intimation concerning them.

I beg, Sir, that you will be pleased to state to their Lordships my Readiness to proceed in the Royal Sovereign the Moment her Defects are made good, if that should meet their Lordships Approbation; but the very precarious State of my Health obliges me to decline going out in a small Frigate, a Stranger to every Person on board, without Accommodation, or any Comfort whatever. I have the Honour to be,

Sir,

Your most obedient,
humble Servant,

W. CORNWALLIS.

Royal Sovereign,
Spithead, 16th March 1796.

The Navy Board's Opinion on the Damages sustained by the Royal Sovereign, and the Report of the Master Shipwright of Portsmouth Yard, and his Assistants, thereon, were then read; and are as follows:

Sir,

Navy Office, 17 March 1796.

IN Answer to your Letter of the 15th Instant, signifying to us the Directions of the Right Honourable the Lords Commissioners of the Admiralty, to cause the Defects of His Majesty's Ship Royal Sovereign, at Spithead, to be examined into, and report to you, whether they can be made good at that Anchorage, or whether she must come into Harbour for that Purpose; we desire you will please to acquaint their Lordships, we directed the Officers of Portsmouth Yard to survey the Defects, herewith send you a Copy of their Report, and desire you will please to lay the same before their Lordships; acquainting them, we are of Opinion she should be taken into a Dock as proposed, as in the present State of the Knee of the Head, the Cables are endangered when at Anchor. And are, Sir,

Your very humble Servants,

GEO. MARSH.

A. S. HAMOND, J. HENSLOW, W^M RULE,
W. BELLINGHAM.

To

Evan Nepean, Esq.

Copy of a Letter from the Officers of Portsmouth Yard to the Navy Board,
dated 16th March 1796.

Honble. Sirs,

IN Obedience to your Directions of the 15th Instant, we have examined into the Defects of His Majesty's Ship Royal Sovereign, and beg to acquaint you, that we find the Knee of the Head gone quite from the under Side of the lower Cheek home to the Stem, as low down as we could see, and are of Opinion the said Damage extends as low as the upper Part of the Scarph of the Gripe: She makes no Water, but we are of Opinion she must be taken into a Dock to examine the Stem, unbolt and take down the Remainder of the Knee, replace it with new, and rebuild the Head; which being signified, we remain,

Honble. Sirs,

Your most obed^t Servants,

EDWARD TIPPET, ROBT JN^O NELSON, P. HELLYER.

Attested,
Geo. Marsh.

Sir

Sir CHARLES COTTON, Baronet, Captain of the Mars, called in, and sworn.

Court.—Have you heard the Charge against the Vice Admiral read?
I have.

Did you join the Vice Admiral in the Mars on the 28th February, without St. Helens?
I did.

What Orders were you then under from the Board of Admiralty, or other superior Authority?

I beg Leave to produce my Orders; viz. one signed by the Lords of the Admiralty; the other by the Secretary; both dated 27th February 1796.

The same were read, and are as follows:

By the COMMISSIONERS for executing the Office of Lord High Admiral of Great Britain and Ireland, &c.

Minotaur.
Quebec.

HAVING ordered the Captains of His Majesty's Ships, named in the Margin, to put themselves under your Command, and follow your Orders for their further Proceedings, you are hereby required and directed to take them and the said Ships under your Command accordingly; and putting to Sea without a Moment's Loss of Time, proceed and cruize Twenty Leagues S. W. from Scilly, stretching in from thence to Ushant, for the Protection of the Trade of His Majesty's Subjects, and the Annoyance of the Enemy; looking out very diligently for any Ships of War the Enemy may send out from Brest, and using your best Endeavours to take or destroy them.

You are to continue upon the above-mentioned Station for the Space of One Week from the Time you arrive within its Limits, and then return, with the Ships under your Command, to Spithead for further Orders; transmitting to our Secretary an Account of your Arrival and Proceedings.

Thefeus.
Emerald.

And whereas Captain Nicholls, of the Marlborough, is now cruizing on the said Station, with that Ship and the Ships named in the Margin, you are, upon falling in with, to afford him any Assistance he may stand in Need of. Given under our Hands, the 27th February 1796,

SPENCER,
H. SEYMOUR,
J. GAMBIER.

To
Sir Charles Cotton, Bart,
Captain of His Majesty's Ship
Mars,
at Spithead.

By Command of their Lordships,
Evan Nepean.

Admiralty Office, 27th February 1796.

Sir,

IN case this Letter should reach you before your leaving St. Helens, it is the Direction of the Lords Commissioners of the Admiralty, that you do accompany the Honble. Vice Admiral Cornwallis, and the Convoy under his Protection, for their greater Security, to the Distance of 50 Leagues from Scilly, before you proceed to your Station pointed out in their Lordships Orders to you of this Day; acquainting the Vice Admiral with the Directions you have received on this Head.

I am, Sir,

Your most humble Servant,

Evan Nepean.

Captain Sir Cha^s Cotton, Bart. Mars,
Spithead.

Court.

Court.—Did you shew those Orders to the Vice Admiral?

I did: and he gave me Orders in Consequence thereof; which I offer for the Court's Perusal:—The Orders were read; and are as follows:

By the Honble. WILLIAM CORNWALLIS, Vice Admiral of the Red, and Commander in Chief of his Majesty's Ships and Vessels employed and to be employed at Barbadoes, Leeward Islands, and the Seas adjacent.

You are hereby required and directed to put yourself, in his Majesty's Ship Mars, under my Command, keep Company with me, and obey my Signals, until further Orders.

Given under my Hand, on board the Royal Sovereign, at Sea, the 29th February, 1796,

W. CORNWALLIS.

To

Sir Cha^s. Cotton, Bart.
Captain of his Majesty's Ship Mars.

By Command of the Vice Admiral,
W. Bennicke.

EDWARD TIPPET, Esquire, Master Shipwright of Portsmouth Yard, called in, and sworn.

Court.—Did you hear the Charge against the Vice Admiral read, and were you present when the several Papers were read?

I was.

Did you inspect the Damages sustained by the Royal Sovereign after her Return to Spithead the 16th March?

I did.

What were they?

The Report made by himself and his Assistants to the Navy Board was read again. To which the Witness adds: It contains exactly the State in which we found the Ship.

Did you think the Damages were such as could be repaired in the West Indies?

I should think not; because I do not think there are Materials on board to repair the Ship, such as main Piece of the Knee, and the Bolts for securing it.

Was the Ship in a State for Service at Sea in that Situation?

I think not.

Could those Damages be repaired with heaving down the Ship?

No.

Do you conceive the Nature of the Damages to have been such, that even had there been Materials on board for repairing them, it could have been done by heaving the Ship down: or was it not necessary, to repair such an Injury, the Ship must be taken into a Dock?

I think it was impossible for its being done by heaving her down; she must have been taken into a Dock.

The Evidence on the Part of the Prosecution was here closed. The Vice Admiral was then called upon for his Defence. He accordingly produced a written Defence, and desired Permission of the Court for Mr. Erskine to read it for him: Which was granted, and is as follows:

E

My

My Lords and Gentlemen of the Court,

I am brought before you after a long Course of uninterrupted Service, to answer Charges, which, if they be well founded, would at once deprive me of the Comfort I have enjoyed in the Reflection of having assiduously and zealously, if not successfully, devoted my whole Life to the Duties of my Profession, and the Service of my Country.

I am accused (for I can put no other Interpretation upon the Charges) either with having betrayed an important Trust, or having by my Misconduct rendered it abortive, and with having unprofessionally denied my Service when it was called for by the Lords Commissioners of the Admiralty; I cannot therefore but be deeply anxious to engage your Attention to my Defence, in which I will lay before you, without Reserve or Management, all the Motives of my Conduct, submitting them with perfect Confidence to your impartial Determination. My Anxiety, that the Defence which I have thus humbly to lay before you should be very distinctly understood, is greatly increased by the Regard I must feel for the Dignity and Independence of the Navy.

If my Honour can be wounded by the Means which are employed to destroy it, the Honour of those to whom I am addressing myself, whose Characters are the highest Part of this Nation's Inheritance, and the best Security for her Glory, may, by the same Means, be also *tarnished* and destroyed.

On the 10th of February I received the Commission recited in the Warrant, under whose Authority the Court is assembled.

At the Time when I accepted this Command my Health was so impaired and broken, that had I felt a Disposition (which I hope I have never manifested) to shrink from any Service, however distant, inconvenient, or hazardous, I might have avoided it altogether, without departing from the Rules and Customs of the Service, and without any possible Hazard to my Reputation, since it has not been usual to press upon Officers superior Commands which are honourable and profitable, and for which there are always many willing and deserving Competitors. The Station therefore was certainly not imposed upon me by Authority, but voluntarily assumed, from an earnest Desire to render any Service to the Public which I might be thought capable of performing. At this Time the Situation of the West Indies was undoubtedly highly critical; it had become so from the almost unexampled Inclemency of the Autumn and Winter, which had for Months together disappointed every Effort to transport a large Force across the Atlantic for their Security, which rendered it the natural and obvious Object of Government to seize the first favourable Change in the Wind, then beginning to turn to the Eastward, in order to dispatch, under a respectable Convoy, a large Body of Transports, which by various Accidents had been so long prevented from sailing: This I considered as the primary Object of the Service allotted to me, my *personal Presence* in the West Indies, farther than it was comprehended in the Performance of that immediate Service, appeared to me to be secondary; the Urgency of it was not particularly pointed out in my Instructions, which were general, and not accompanied with any Communication which led me to consider that I was immediately to assume the chief Command in the West Indies, for the Purpose of undertaking any immediate Service in which a special Reliance was to be placed upon my humble Ability to serve the Public; under these Circumstances, on the contrary, in the different Communications which I had with the First Lord of the Admiralty, even after I had received my Commission, I never distinctly collected that Sir John Laforey was to immediately deliver up the Command on my Arrival, and I carried with me no specific Order to him on that Subject, nor was a Syllable even said to me, either upon the Nature of the Service expected from me in the West Indies, or the particular Urgency of my personal Presence in those Parts, till after my Return into Port; on the contrary, I had every Reason to imagine my sailing at last was hurried for the precise Object of conducting that Part of the Convoy which the Vengeance had left behind; and surely the putting the Convoy originally under the Charge of the Vengeance, leaving me behind at Spithead, did not at all manifest the Urgency of my immediate Presence in the West Indies, except the Purpose of the Convoy.

Under these Circumstances, and in the Condition of the West Indies, as it had long pressed itself upon the Mind of every Man interested in the Property of Great Britain, it would have been a presumptuous Judgment in me, to have put upon a Footing my personal Exertions in the West Indies, with the Arrival of that necessary Force which, in the first Instance, I was

to forward and protect. Strongly impressed with these Considerations, I kept the Dispatch of the Convoy uppermost in my Mind, as the first Object to be attended to.

I was the more confirmed in this Conception of my Duty, from a Letter which I received from the First Lord of the Admiralty, dated the 25th Instant of February, in which his Lordship stated, that as Captain Russel, of the Vengeance, notwithstanding the Order he had received, had proceeded to Sea without taking the Transports and Victuallers under his Convoy, I was to give them Instructions to take them under my Protection, and his Lordship added a strong Wish, that I should seize the Opportunity of the Wind then favourable, and proceed to Sea with all possible Dispatch. I received this Letter on the next Day (Friday) the 26th February.—At this Time I had Instructions to give to upwards of a Hundred Sail of Ships.—The Royal Sovereign was within a few Days of the Pay becoming due to the Ship's Company.—Captain Whitby had taken the Precaution to have the Books down, and I went immediately to the Commissioner to press the coming off that Day, if possible, to pay the Ship, which he agreed to do on my producing the Letter, though they were not regularly entitled to it; but the Books not being cast, it was too late that Day, but he came off the next Morning, at which Time the Ship had been unmoored to be ready to sail, if the Payment could have been made the Day before. About Two hundred Landmen and Marines destined for the West Indies, were besides received at the same Time to be distributed amongst the Ships in that Station.

The Commissioner did not leave the Ship until between Four and Five in the Afternoon of Saturday, which was too late to move at that Season of the Year, but I made the Signal to weigh early the next Morning, and actually sailed accordingly, although the Ship was short of Beer entirely, and of Water considerably, and I pushed out, inconvenienced and hurried as I was, for the Purpose of getting out the Convoy, confident that the Ships under my Protection would not get out but from my Example. I mention these Circumstances, as they serve to shew that I was not very backward in obeying my Orders to repair to the West Indies. As all this was done in consequence of a Letter from the First Lord; I did not receive my Sailing Orders till late on the Day before I sailed.

On Monday Night, about 11 o'Clock, the Convoy then being collected, the Bellisarius ran on board the Royal Sovereign, and continued entangled with her near an Hour; at that Time it was too dark, and blew too hard to hold any Communication with the other Ships, and it was besides impossible in the Instant to ascertain the Extent, or the possible Consequences of the Accident. The Undaunted and Beaver parted Company in the Course of that Night; during the following Day it also blew too hard for Communication with the Squadron, or Inspection of the Ship, and in the Night of that Day the Alfred and Quebec parted Company also.

During this Time, though I felt great Anxiety on the Subject of the Ship, and could have wished to examine her Condition at Plymouth, before I left the Channel, yet as she did not leak, and as the Convoy was too much dispersed to have received any Order, and must have become totally separated, and at all Events greatly delayed by such an Attempt, I thought it most consistent with my Duty, and with the Spirit of my Instructions, to pursue the Tract of the Voyage, so as to push forward the Convoy through the most dangerous Part of the Navigation, and to wait the first Opportunity of moderate Weather to inspect the Condition of the Ship, and to act accordingly. On the 5th March, when the Weather was, for the first Time, sufficiently moderate, I went into a Boat to examine the Consequences of the Accident, when it evidently appeared, that she neither could lay with Security at her Anchors, nor keep the Sea with Safety: Would it therefore have been justifiable in me, for Motives of my own Accommodation, to have proceeded in that Ship to the West Indies, knowing that when she got there she was unfit for immediate Service, and well aware of the Delay and Inconvenience which must have been incurred during the necessary Repairs of so serious an Accident?

Had my own Convenience been my first Object, I certainly should have attempted it; but on considering that on my Arrival in that Country, should the Command devolve to me, there was no proper Ship for me to go into, and knowing the Royal Sovereign to be unfit for present Service, and not repairable there at all, as appears by the Builder's Evidence, I should have felt it criminal to have deprived the Country of the Services of a Ship, which, by the Repairs in England, might have been so soon rendered serviceable, and been dispatched to the West Indies long before she could have been re-fitted in that Country, and probably in Time for any Operations which could have followed from the Arrival of the Convoy in the West Indies.

I therefore

I therefore examined the Charts with a View of recollecting some Harbour in the Course of the Voyage, where a Repair might be reasonably attempted; but no sufficient one presenting itself, I judged it to be the most consistent with my Duty, and with the Spirit of my Instructions, to take the Advantage of the light Easterly Wind which then favoured us, still to carry on the Convoy to the Southward and Westward, and then to return to England.

On the 7th March, this Object being accomplished, I accordingly made the Signal for Captain Louis, and delivered over the Convoy to his Charge, which I had just Time to do, when it came on to blow hard as before.

It is imputed to me as Blame, that I did not shift my Flag into another Ship, but it must be remembered, in the first Place, that the Squadron under my own particular Command, and which were alone destined for the West Indies, had parted Company long before it was possible to make that Arrangement. The *Alfred*, *Undaunted*, *Prompte*, and *Beaver*, were the only Ships put by the Admiralty under my Orders: For, although the *Mars*, *Minotaur*, and *Quebec*, joined me as I passed St. Helens, yet they sailed with separate Orders from the Admiralty, which will be very material for the Consideration of the Court; and although as superior Officer, I had undoubtedly a Power to assume the Command of any of them, yet under the particular Circumstances I did not hold it necessary or discreet to do so. The *Mars*, *Minotaur*, and *Quebec*, had not only been placed under the separate and independent Command of Sir Charles Cotton, but the Order to that Officer was accompanied with a Letter from the Admiralty, directing him only to accompany me to the Distance of 50 Leagues from Scilly, and then to proceed to the Station pointed out in the Orders to which the Letter referred. And he was further expressly directed to convey this Information to me, which was the only Intelligence indeed I received upon the Subject; for so little did it appear to be the Intention of the Admiralty, that I should consider these Ships as Part of my Squadron, that I had no official Communication from the Admiralty concerning them, nor even knew that they were to accompany me, till Sir Charles came on board the *Royal Sovereign* at St. Helens.

Although I had the Power therefore to shift my Flag into any of these Ships in case of an Emergency, sufficient to justify my superseding the Admiralty Order to Sir Charles Cotton, yet it was so far from being of course, as if they had been Ships of my own Squadron, that I should have been subject to a Court Martial for such a Proceeding, and could only have justified myself by the Necessity or the Expediency of the Occasion. It seems therefore hard, that an Officer should be subjected to a Court Martial for not having exercised a Discretion, for the Exercise of which he must have been subject to a Court Martial also. These Ships were besides not fitted for Foreign Service, nor provided with Provisions or Stores for such a Voyage; and the Boatswain and Carpenter, with a Lieutenant and a Number of Men belonging to the *Mars*, had been left behind in England, having been dispatched whilst she was at St. Helens, to bring off Stores necessary for that Ship even for Channel Service, which rendered her, under these Circumstances, very unfit for the Reception of my Flag; and with regard to the *Minotaur*, I had Twelve Months before, at the Desire of Captain Louis, whilst I was Senior Flag Officer of the Channel Fleet at this Port, officially stated to the Admiralty that she had Defects in her Bottom, and that she had been upon the Rocks near Plymouth, since which Time I had again learned from Captain Louis that she had been Twice or Thrice on Shore in Quiberon Bay.

It was impossible therefore, under these Circumstances, that I could have considered it to be my Duty to transfer my Flag to the *Minotaur*, because I was so sensible of her being totally unfit for the West India Station, that I did not leave her to receive Orders then for her future Government, but directed her to return immediately to Spithead upon seeing the Convoy in Safety to Barbadoes.

If indeed I had been engaged in Action, or had been pursuing an immediate and over-ruling Object of Service, paramount even to the Charge of so large and critical a Convoy, I hope to find Credit with the Court from my long Service and Experience, that I should instantly have transferred my Flag and Person at all Hazards either of Health or Life; but being in a Situation totally different, and being invested with that Discretion which must belong to every Officer invested with a superior Command, I had a Right to judge what was best; and I found and exercised a different Judgment. To have thrown myself precipitately into another Ship, without the Conveniencies which my State of Health has long rendered but too necessary, not for Comfort alone, for the Discharge of Duties, which from habitual Infirmities I have not always, without great Attention, been equal to, would have been to give up the
real

real Substance of my Duty to a false Appearance of Zeal to perform it. To have shifted my Flag without taking with me my Officers, whose Fidelity I had long proved, and in whose Assistance in case of Emergencies I confided, would not only have been an unnecessary Sacrifice, but would have been engaging on a Service which I should not originally have undertaken, and which in Fact I never undertook. It ought surely to be a real and momentous Emergency, which deprives a Commander in Chief of the common Comforts and Assistance, which by the Customs of the Service apply to Officers of inferior Rank. On the other Hand, to have made the regular Exchange of the Establishment of Two large Ships at Sea, would have been to have delayed the Convoy without an Object of corresponding Magnitude, and to have subjected it by that Delay to more probable Mischances, which had before proved so fatal to the West India Expeditions, and perhaps in the End to have been frustrated, which it would in Fact have been by a Change of Weather, before it was accomplished. The Court will also bear in Mind the Length of Time it must necessarily employ (to say nothing of the probable or other inevitable Interruption at Sea) in removing Stores, Ammunition, and Provision, with every Thing that would have been necessary to have carried into any Ship for active Service, more especially into a Ship not originally equipped for it; recollecting also, that if in the Midst of such a Process an Enemy had appeared in Force, it might have been fatal to the Convoy, and even to His Majesty's Ships.

These were my Reasons for dispatching the Minotaur with the Convoy, and for returning with the Royal Sovereign to England, as by this Cause I forwarded the quick Passage of the Fleet, which I considered to be the primary Object; at the same Time that my own personal Presence in the West Indies could be also secured, by that instant Repair or Change of Ship in Port, the first of which was impracticable at Sea, and the other, for the Reasons I have submitted to the Court, highly inexpedient.

I really thought that the Plan I adopted, amidst the contending Difficulties I had to encounter, was the best for His Majesty's Service, thinking it highly probable that I should myself reach the West Indies, before the Consequences of the Arrival of the Reinforcements could have rendered my Presence urgent or critical. For I must intreat the Court always to hold in Remembrance, that this immediate and pressing Urgency was never suggested to me by the Admiralty, directly or indirectly, until after I had taken the Measure which has been disapproved of, and returned back again into Port.

If the Opinion which I thus formed, under all these Circumstances, was not the best which might have been adopted by an unerring Judgment, I deeply lament it, and cheerfully submit to have it corrected by the Judgment of the Court. Yet for the Honour and Advantage of the Service, I feel an Interest beyond myself, in claiming for a Flag Officer, charged with a high Command, the Exercise of a reasonable Discretion in Service, if to your Justice it shall appear that I acted to the best of an honest Judgment.

By the Customs of the Service, as far as I have been able to collect them from Experience, superior Officers have never been held responsible in their Lives and Stations, or in their Characters, which are dearer than both, for mere Differences of Judgment, in Cases where Men meaning fairly to discharge their Duties, and not criminally ignorant of what they exact from them, may fairly and reasonably be supposed to differ, more especially when the Act or Transaction to be judged of has been followed by no disastrous Consequence, nor has drawn after it any Inconvenience to the Public.

I confess it appears to me, that if without any Standard but the infinitely divided Opinions of Men in official Situations, the Characters of Officers were subject to be shaken by Trials, without any previous Complaint, or antecedent Judgment of the Profession upon their Conduct, it might be attended with the most serious Consequences to the Dignity and Independence of the Navy. With Regard to my Intentions, they are for your Judgments, candidly measuring them (as I know you will) by the ordinary, or rather the universal, Principles of human Action.

The Command, as I have stated in the Introduction of my Defence, and which I am charged with having abandoned, was not originally pressed upon me by Authority, but had been voluntarily accepted, as a gracious Distinction of my supposed Capacity to discharge it.

It was accepted after a Series of such unremitting Services, I wish to say nothing of them but their Continuance, and under the Pressure of such almost disqualifying Infirmities,

as made the avoiding it altogether perfectly consistent with my own Honour, and the liberal Customs of British Government. It was pursued at a very great Expence, in the Equipment necessary for a long Voyage and a distant Station.

It was followed (as will appear by the Evidence) by unremitting Anxiety and Activity, to accomplish the most important Object of my Trust, by the most early sailing: And therefore, had it been my First Command, had I given no former Proofs of Obedience to Command, Zeal for the Navy, or Attachment to my Country, yet surely it would be difficult for the most ungenerous Malice or Uncharitableness to have ascribed my Return to a wilful Abandonment of my Station: An Abandonment so singular and so sudden, within so short a Time after I had embarked, the Character of a long and laborious Life, upon the Discharge of it, without the Pressure of Dangers to subdue Patience, or to shake the Resolution, and indeed without the Intervention of a single Circumstance, which judging an Individual by the general Character of Human Nature, could be supposed to have drawn me aside from the Path of my Duty, as far as I understood its Direction.

I do not therefore believe, that the high and respectable Board which is my Prosecutor, imputes to me a base or disloyal Purpose, but that it is my Judgment only which is arraigned before you. In Answer to that I have shortly, and without the smallest Reserve or Management, laid my whole Mind before you, as it produced my Conduct. If it appears to you to have been criminally weak and ignorant, it may be censured or punished at your Discretion, but unless you are prepared to pronounce against me this disqualifying and mortifying Judgment, I am persuaded that you will not reduce the Condition and the Character of a superior Officer to a perilous and servile Dependence upon the Shades and Varieties of Judgment.

It is one Thing to judge of the Moment, and upon the Occasion, and another after the Event, and upon maturer Deliberation. It is one Thing to discharge a Duty, having a single and prescribed Duty to exercise, and another to fulfil a Command which is complex and discretionary; and therefore the wise Policy and humane Justice of this enlightened Country has immemorially judged all Persons in Authority, Civil or Military, by the Heart and Intention, which are the Fountains of Action, examining Conduct by a fair and liberal Standard, allowing for reasonable Differences of Opinion, or even for accidental Errors, consistent with an intelligent Capacity, punishing only wilful Misconduct or Ignorance, which no Doubt becomes criminal when it undertakes Trusts which it has not the Capacity to understand or perform.

I trust in God that I shall not be placed by your Sentence in either of these degraded Classes of Delinquency.

I cannot quit this First Charge without observing, that upon my Return to Port, and after I had transmitted my Journal to the Admiralty, and had explained generally the same Reasons I have now submitted to the Court, I was not only continued in my Command, and directed to pursue the Voyage in another Ship, but was favoured by a confidential Letter from the First Lord of the Admiralty, speaking only with Regret of an Event which is now made the Subject of so solemn a Trial, inviting to a Second Command, and inclosing to him by the same Conveyance, a Notification of his Appointment to the honourable and flattering Distinction of Rear Admiral of Great Britain, the Officer who, in his Opinion, had betrayed the First. I do not urge this by Way of Complaint against others, but in my own Defence; because it shews manifestly, that when the whole Case was laid before the Admiralty, although my Return was treated as the Subject of just Regret, yet it certainly never was considered as a Violation of my Duty; and I am at a Loss even now to understand at what Period, and under what Circumstances, it first assumed the highly criminal Complexion which is now affixed to it.

Had I sailed again in the *Astræa*, I could not surely then have been arraigned for my Return in the Royal Sovereign; and it is hardly to be supposed that Government would remit the Punishment of an Officer, whose Conduct appeared to them so reprehensible, and to pass by the Censure fit to be pronounced upon his Neglect or Ignorance, only that he again might be invested with the same Trust which he had just before violated, whilst so many meritorious and skilful Officers were within the Summons of a Moment to supersede him: This however, if the First Charge is well founded, was precisely my Case with regard to the Admiralty on my Return to Spithead, as appears to the Court by the Third Article of the Charge exhibited against me.

My Answer to the Second Charge on my Return into Port, necessarily involved in the Discussion of the First, being already before the Court; I now proceed upon the remaining Article.

This Charge is of a Nature totally dissimilar to the Two former, and must undoubtedly be judged upon Principles entirely different; I had here neither Judgment to form, nor Discretion to exercise, but an Order to obey.

I trust, after so many Years Service, I shall not be found endeavouring to sap the Foundation of all Discipline, by setting up any Privilege in an Officer to refuse his Service, in any Shape in which the Sovereign, or those representing him, shall require; such sacred and essential Principles as Subordination and Obedience, in all Military Service, and indeed in all Government, shall not be wounded by my Defence, as, I trust, they have not been questioned by my Conduct; I place my Vindication wholly upon the Fact: Relying on my Conscience for my Intention, and appealing to the Correspondence for the Proof, I solemnly and firmly deny that I am guilty of any Disobedience.

On my Return to Spithead, I acquainted the Admiralty with the Reasons for my Conduct, and transmitted my Journal of the Circumstances by which it was governed, in the Manner already in Evidence before the Court. This Communication produced the Order in question, which I admit to have been positive, but which I deny was disobeyed. When I received the Order to hoist my Flag on board the *Astræa* Frigate, taking with me my Secretary and Flag Lieutenant, it could not be with the View of my resuming my Command of the Convoy, then far advanced upon its Voyage, but obviously (and indeed as expressed on the Face of the Order) that I might pursue the Objects committed to me by my Commission of Command in the West Indies.

A Trust so important and intricate was no light Consideration, and could not have been conscientiously undertaken without a reasonable Confidence of being in a Condition to discharge it; under the Circumstances directed by the Order, I found myself in no such Condition. If the hoisting my Flag in the Frigate in question, without my Officers, or the other Appointments provided for me, had been but an Abridgment of my own Comfort, I can only appeal to my past Life and Services for the Probability of my opposing a Difficulty upon the Subject. If even perilous to my Health, I had only viewed that Peril as it was applicable to my own personal Enjoyments, I must again refer to your candid Judgment of my Disposition. But I felt far otherwise. I was scarcely fit for that Service at all when I originally undertook it; I was indeed only fit for any Service with great Management of my Health, and by no Means able to support the Anxiety of high Responsibility, without the Assistance of those with whom I had been accustomed to act, and in whom I reposed a Confidence which kept my Mind at Rest. I was besides obliged to sleep in a close Apartment, so that the common Changes of the Weather frequently affected me, to a dangerous Degree, with Gout and Fever, which, if not critically attended to, must have totally disqualified me for my Trust. In such a State of Health I could not, as an honest Man, undertake an important Command, in a most critical Season, which might call for great and unremitted Exertions, and at a Distance where my Place could not on the sudden be supplied, without first submitting that Condition of my Health to the Consideration of the Admiralty, which might have been unknown or overlooked. I could not enter upon such a Service in the Manner prescribed by the Order, with the Expectation of perhaps being, on my Arrival in the West Indies, a fitter Object for an Hospital than for the trying Station of an important and complicated Command. I certainly felt these Reasons as sufficient, not indeed to vindicate Disobedience, but to warrant my submitting them to the Authority which was to decide upon their Effect. If the First Lord of the Admiralty had not accompanied the first Order with a private Letter (*obligingly*, as I then considered it) I probably should have been more particular in the Detail in my Answer to the Board, but I was sufficiently so to have protected me against the Charge of a mutinous Disobedience, as my Answer humbly proposed, for their Lordships Consideration, my Desire of proceeding in the Royal Sovereign, assigning the precarious State of my Health as the Reason of my Conduct, which I expressed in the following Words:—"I beg, Sir, that you will be pleased to state to their Lordships my Readiness to proceed in the Royal Sovereign the Moment her Defects are made good, *if that should meet their Lordships' Approbation*; but the very precarious State of my Health obliges me to decline going out in a small Frigate, a Stranger to every Person on board, without Accommodation, or any Comfort whatever."

The Words of this Letter speak for themselves; and even if my Expressions had been ambiguous it could not be in Reason supposed that any Man in his Senses, who had spent his whole Life in the Service, and whose nearest and dearest Relation was then in one of the highest Departments of a Government to which he himself had ever been steadily attached, would have answered an Order of the Board of Admiralty, accompanied even by an unusual and civil Communication from the First Lord in Explanation of it, by a flat Disobedience, which would have been rank Mutiny upon the very Face of it. Such an Interpretation you will never put upon such a Letter; you will rather read it in the true Spirit with which it was obviously written, and give it the only Construction which it can reasonably bear, much more when the whole Correspondence is put together and considered. If the Admiralty on receiving my Letter had repeated its Order, I should then have had no Alternative but Obedience, or Proof (if I had disobeyed it) of Incapacity to obey. Had I gone to Sea in the Frigate, upon the Rejection of my Proposition, and the Repetition of the Order, after the Explanation of my Reasons for desiring to be released from it, though I might have been unfit for the Duty, my Conscience would have been released from the Burden of having voluntarily undertaken it; and there is no Evidence whatever before the Court, that I would have refused Obedience, if the Admiralty, after my Representation, had continued its Command. My Representation against the Order was meant as the respectful Dictate of Conscience and Duty, not as the Defiance of Mutiny or Disrespect. The Language of it will bear no other Construction; but even had its Language been ambiguous, Men are not to be caught up by their Expression, above all, Men who by their Habits are not led to the nice Discrimination of Phrases and Words, but their Motives and Intentions are to be judged of. My Answer indeed was so far from being either intended or expressed as a Disobedience to the Order, that it contained a Proposition to the Board for its Approbation, which had it been approved, would have annulled it; and I could not possibly know the Pleasure of the Board upon that Head, till I received the Letter from the Admiralty of the 17th of March. If that Letter had contained the Rejection of the Proposition I made concerning the Royal Sovereign, together with the Repetition of the original Order, and I had then declined to obey it, the Court in such Case could undoubtedly have had nothing to consider, but whether I was under an Incapacity to obey. I am not contending for any Relaxation of Discipline; God forbid that I should; but the Board, instead of considering me as guilty of Disobedience from my First Answer, or enforcing its original Order on the Rejection of my Proposition, issued a Second Order, directing me to continue my Flag on board the Royal Sovereign, at Spithead. Until the Moment of my receiving this Second Order, which wholly countermanded the First, I had no Means of knowing the Pleasure of the Board concerning the Proposition I had made, and it cannot surely be contended, that I was bound to shift my Flag to the *Astræa*, before I received the Admiralty's Answer to my Proposal to continue in the Royal Sovereign. It is impossible therefore to charge me with Disobedience to the First Order, until I received the Second, because, until that Period, the Proposition I had made was unreplied to, and after receiving the Second Order, I could not then obey the First, because the Second had superseded it.

Had it been intimated, or even hinted to me, that an Interpretation was put upon my Letter, so inconsistent with my Duty, and so repugnant to the Character of my whole Life, I should have had an Opportunity of giving the same Explanation of my Conduct to the Board, which I have To-day submitted to the Court; but unfortunately for the Service, and for me, I was not given to understand the Light in which my Answer had been considered, until I learnt it from a Notice that a Court Martial was to be held to inquire into my Conduct. I therefore submit humbly to the Court, that I am not at all in the Condition of an Officer who has disobeyed an Order, for a Reason of which he makes himself the ultimate Judge, because such a Person must shew an Incapacity to obey, which alone can justify Disobedience; whereas I am not justifying a Disobedience from an absolute Incapacity to obey, but am contending that I have not disobeyed at all. I did not set up the Condition of my Health as an ultimate Bar to the Fulfilment of the Order, but from a Sense of Honour, not to undertake a Duty which I could not discharge with Advantage to the Public. I interposed a Reason for relieving me from Obedience, which I submitted to the Judgment of my Superiors. This cannot be a Crime, unless it is to be established as a general Proposition, that no Obstacle to the Execution of an Order, though unknown to the Persons who issue it, can be ever communicated and submitted to any Public Board, by the highest Officers in the King's Service; without a Breach of Duty, and a Contempt of Discipline.

If I suffer from such a Rule, I shall be the first Victim of it, and my Punishment the first Publication of its Existence. A Signification of the Pleasure of Government in all its Departments, Civil and Military, to Magistrates and Officers charged with important Trusts, has not hitherto been supposed to preclude Representation from those who are to execute them. Even an entire Resignation of Stations, in which the King may unquestionably command the Services of all His Subjects in Military Ranks, and in many that are Civil, has never been considered as a Contempt of the King's Authority, until the Resignation has been rejected, and the Refusal to serve insisted on notwithstanding. The whole System of British Laws, Civil and Criminal, are calculated to preserve rational Obedience to Order, not to catch Men in Snares who never felt a Disposition to disobey. When a Communication is made, accompanied with a Reason for declining the Execution of an Order, the Reason has always been taken to be a Submission of its Validity to the Power which is to decide upon it, because the Reason, supposing it to exist, may either be rejected by Authority as insufficient, or if held sufficient its Sufficiency may be made the Subject of Trial. Upon this Principle I acted, and upon this Principle I rest my Defence.

I submitted to the Admiralty my Reasons for declining to proceed with the *Astræa*, and humbly offered an alternative Proposition. Surely, therefore, no Disobedience could exist till that Proposition was adopted or rejected; and the Second Order which rejected it, countermanded also the First Order, which could never therefore be disobeyed.

Having now completely refuted the Charge of Disobedience, I cannot help here lamenting, (I might, indeed, in any other Situation than my present employ the Language of Complaint) that although in my Answer to the Board of Admiralty, on receiving the First Order, I had most unequivocally expressed my Readiness to continue my Command in the Royal Sovereign, when she should be fit for Sea, and which plainly comprehended any other Ship, not subject to the Objection I had made to the *Astræa*, and which I only submitted from the precarious State of my Health, as distinctly stated in my Letter. Yet the First Lord of the Admiralty, in the Answer which he returned to it, was pleased to pledge the Opinion of the Board, to my having indicated a Determination wholly to relinquish the Command; an Opinion which the Board did not take upon itself to deliver upon issuing the Second Order, and which I take upon myself to submit very humbly to the Court, could not in common Justice have pronounced: Since an Objection of a particular Mode of executing my Command, existing from no Fault of mine, and not subject to my Controul, coupled with the fullest Tender of my Services in any Mode not within the Scope of that Objection, can neither in Reason nor in common Candour be construed into a Determination to relinquish my Command altogether. Yet such a Construction was fastened upon my Letter, not only contrary to the plain Intention of the Writer, but in the Teeth of the very Language in which he distinctly expresses himself.

But what is still more remarkable, and which I have still greater Reason to regret, if not actually to complain of, is, that even in this Letter which imputes to me, not merely the Disobedience regarding the *Astræa*, but which engrafts upon it the unauthorized and unfounded Imputation of having determined to relinquish my Command.

The First Lord of the Admiralty does not even then write to me as an Officer guilty of mutinous Disobedience, but as one who, having declined a particular Service, is not to expect to be employed in any other. And it was not till after my Reply to that Letter, in which I stated myself to have been misunderstood, that I was informed my Conduct was to be the Subject of a Court Martial. And to my utter Astonishment, not merely for the supposed Disobedience regarding the *Astræa*, but for returning in my Ship to Spithead, although subsequent to my Return, and the Communication of all my Reasons for it to the Admiralty, the First Lord had cautiously gone out of his official Course to write to me upon that Subject, and, to use his own Expression, had concluded, *I had very satisfactory Reasons for not shifting my Flag, and for returning with the Royal Sovereign to England.*

If this be the regular Course of Service, the Character of a British Officer is more precarious than I have hitherto considered it.

I confess it appears to me, that upon these Principles the higher the Command, the Danger and Inconvenience increases.

A Captain of a Man of War has his appointed and certain Command, he has his Ship to conduct, with his Officers to assist him, and in the ordinary Course of Service is not subject to

be removed, nor his Conduct open to Question, whilst his Commission continues, and whilst he obeys his Orders, which are generally simple and distinct.

But the Condition of an Admiral, and above all of one commanding in Chief, is widely and essentially different.—He has many Judgments to form, which must be formed upon the sudden, and which must proceed upon his own Views and Opinions.

If upon small Occasions, where the Public Service has sustained no stateable Loss or Inconvenience, and without the Charge or Complaint of any Officers Witnesses to his Proceedings, the Conduct of such an Officer were subject to be hung up in the wavering Scales of Opinion, instead of being subjected to the plain and ordinary Principles of Criminal Justice, there would be a speedy End of all that Firmness and Confidence, which is so essentially necessary to high Command.

The Character of an Officer is a delicate Thing.—It suffers from rash Question, as well as from Condemnation; and the Service suffers along with it.

An Officer sacrifices to his honest Fame, and to the Approbation of his Country, the Enjoyments of many of the Comforts which render human Life delightful; the Attainment of it in any Degree is a Prize difficult to be earned, and not lightly to be put in Hazard: Subordination to Authority is undoubtedly to be cherished and supported, but it is never in greater Danger than when Affection in Service is unrequited, and Security in good Intention is shaken. I feel more than I can express upon this Subject, and I speak myself to those who cannot but feel along with me. My own Conscience acquits me of all Blame, and if your Judgment shall fortunately confirm it, my Satisfaction will be complete.

W. CORNWALLIS.

Captain JOHN WHITBY, of the Royal Sovereign, called in, and sworn.

Vice Admiral Cornwallis.—Have I not frequently talked to you respecting the Accident that happened to the Royal Sovereign? State to the Court any Thing you know relative to my Readiness to carry my Orders for proceeding to the West Indies into Execution.

Admiral Cornwallis came down to Portsmouth on the Sunday Week preceding that on which we sailed; I firmly believe that at that Period he had received no Sailing Instructions; I believe the Date of the Admiral's Sailing Orders was the 25th of February: We sailed on the 28th, I think. We were directed to carry a Convoy of Victuallers, Transports, &c. to the West Indies. Considering that no previous Intimation had been given to the Admiral to that Effect, that the Order was dated on the 25th, that upwards of One hundred Sail were to receive Convoy Instructions, I cannot conceive a Possibility of there being a Delay, but on the contrary, I cannot conceive even with that Circumstance, how more Zeal could have been manifested.—Certainly Admiral Cornwallis is a Person possessed of that Degree of Equanimity as seldom to manifest an Anxiety in any Predicament, but in this more particularly, by his Conduct, by his Actions, by his Language, to feel the greatest Degree of Concern and Regret at the untoward Accident. His Anxiety to proceed according to his Orders was very strongly marked; and although it appeared to him, that it might carry with it the Air of a Disaster, for various Reasons he thought it best for His Majesty's Service, though in many Respects against himself privately, to return to Great Britain.

Do you recollect my having mentioned, at any Time after the Accident, my Intention of stopping at any Port in the Way, where it was probable I could have the Damages repaired?

Certainly.—He repeatedly examined the Charts for that Purpose, and would, I am convinced, from the strenuous Manner in which he expressed himself, have so proceeded.

State to the Court what you had observed as to the general State of my Health?

I am of Opinion, from having been constantly for some Years in Habits of Intimacy with Admiral Cornwallis, and from having constantly attended him in those Situations, that his Health is

is not only precarious, but exceedingly weak. I should add, that I have known him rise in the Morning apparently very well; that he has caught a Cold from almost unknown Causes in the Course of the Day; that by Four or Five o'Clock in the Afternoon he has been in Bed, and delirious a considerable Part of the Night; so great are the Changes, that he has recovered by the Morning, what otherwise might have cost him his Life: I have very great Reason to believe that he thought so himself.

Court.—You have said that Vice Admiral Cornwallis shewed the strongest Marks of Concern at the Accident which befel the Royal Sovereign; did you hear him express his Regret, that upon a Consideration of the Circumstances of the Case, he thought it expedient to return himself to England in that Ship?

I did.

From the Experience you have had of the Vice Admiral's general State of Health, do you deem it so precarious, as to think that the confined Situation of a Frigate would have been particularly injurious to it?

I do; with all the Circumstances attending it.

Captain Whitby withdrew.

Mr. JOHN ALEXANDER, Master of the Royal Sovereign, called in, and sworn.

Vice Admiral Cornwallis.—After the Accident had happened, do you recollect my having conversed with you, and looked over the Chart, in order to find some smooth Harbour upon the Passage, where the Damages the Ship had received might be more thoroughly examined, and repaired, if possible?

Yes; I do.

Relate what passed.

The Vice Admiral asked me if there were any Ports in the Western Islands, or Canaries, or any where in the Passage to the Westward of us, that the Ship might lay in Safety to repair the necessary Damages she had received, at Two or Three different Times.—I gave it as my Opinion that there were not any Ports.

Court.—In the Intercourse you had with the Vice Admiral, in consequence of the Disaster which befel the Ship, did he discover to you a Concern at being thereby retarded in the Prosecution of his Voyage?

I think he appeared very much concerned.

The Witness withdrew.

Mr. THOMAS KEIN, Surgeon of the Royal Sovereign, called in, and sworn.

Vice Admiral Cornwallis.—Since you have been with me, have you found my Health precarious?

Yes—very much so.

State what you mean by precarious.

Being subject to a Complaint in his Bowels, he has some very violent Attacks; so much so that I have been frequently obliged to sit up with him a great Part of the Night.

Court.—Has the Admiral been frequently laid up with Fits of the Gout, and liable to sudden Changes in his Health?

He has.

The Witness withdrew.

The Vice Admiral having here closed his Evidence, delivered into Court a Letter from Earl Spencer to him, dated 25th of February; also a Letter from Mr. Nepean, dated the 17th March; and a Second Letter to him, from Earl Spencer, of the last mentioned Date, and observed to the Court, that the Two last-mentioned Letters were received by him on the same Day. The said Three Letters are hereunto annexed.

Received

Received in Court from the Vice Admiral,
G. J.

Dir Sir,

A S. I find Captain Russell, of the Vengeance, has (notwithstanding the Orders he received) proceeded to Sea without taking the Transports and Victuallers under his Convoy, which had been intended (in case of his timely Arrival) to be put under his Protection, you will of course give them Instructions, and take them out with you; they, I understand, are all ready, and might have sailed with the Vengeance; they will therefore, I hope, not detain you a Moment; and it is highly essential, as I need not tell you, that you should avail yourself as much as possible of this very fair Wind to get clear of the Channel. In case the Prompte should not be ready, you must not wait for her, and I most sincerely hope and trust that you will be at Sea by Saturday Morning at farthest.

Wishing you with all my Heart every possible Success, I remain,

Dear Sir,

with great Truth,

Your very obedient,

humble Servant,

SPENCER.

Admiralty, 25th February, 1796.

The Honourable Vice Admiral Cornwallis.

Received in Court from the Vice Admiral.

G. J.

Admiralty-Office, 17th March, 1796.

Sir,

I HAVE received and laid before my Lords Commissioners of the Admiralty, your Letter to me of Yesterday's Date; and I have their Lordships' Commands to acquaint you, that, as you have declined proceeding in the Astræa to the West Indies, where you will perceive by my former Letter they judged your Presence to be essentially necessary, they have thought it right that your Flag should continue flying on Board the Royal Sovereign, and that you should remain at Spithead until further Order.

I am,

Sir,

your most obedient

humble Servant,

EVAN NEPEAN.

Honourable Vice Admiral Cornwallis, Spithead.

Received in Court from the Vice Admiral.

G. J.

Sir,

IF the Board had not deemed your speedy Arrival in the West Indies of material Importance to His Majesty's Service, they would certainly not have thought of ordering you out in a Frigate; a Mode of Conveyance exactly the same as that in which Sir J. Laforey went out to the same Station; your declining, therefore, to go out in that Manner, can only be considered by them as indicating your Determination to relinquish the Appointment altogether; and I am very sorry to be obliged to say, that, under the Circumstances of your Case, such a Determination puts it out of my Power to continue you in Employment, without giving what I conceive would be, a very dangerous Example to the Service, and entirely subverting every Idea of the Discipline so necessary to be maintained in it.

I have the Honour to be

Sir,

your most obedient

humble Servant,

SPENCER.

Admiralty,
17th March, 1796.

The Honourable Vice Admiral Cornwallis.

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[The

[The Vice Admiral said, he had on the 18th March written an Answer to Earl Spencer's last Letter, the same was read, and is as follows.]

My Lord,

I must beg Leave to observe, in Answer to the Letter I had the Honour of receiving from your Lordship this Morning, that the Frigate was fitted out for Sir John Laforey, and his Son appointed Captain of her. He had besides some Establishment when he got upon the Station. If I had gone out in the Astræa, I must have continued on board that Ship, or gone under the same Disadvantage on board another. If Sir John Laforey had left me, I do not know that I could, so circumstanced, have performed my Duty. I confess I thought it must have appeared in that Light to the Admiralty Board, and that the Astræa was ordered more to shew Disapprobation, than from any serious Intention that I should have gone out in that Manner. The Accident which has befallen the Royal Sovereign has been very distressing to me. I hope your Lordship will excuse my having taken up so much of your Time, but I thought it necessary to vindicate the Motives for my Conduct, which it gives me much Concern to find misunderstood by your Lordship.

I am, &c.

March the 18th.

WM. CORNWALLIS.

[The Vice Admiral produced another Letter from Mr. Nepean to him, dated the 19th of March, also Copy of a Letter he had written to Mr. Nepean, dated the 1st of April, and also Mr. Nepean's Letter in Answer thereto, dated the 2d; all which were read, and are as follows:]

Admiralty Office, 19th March, 1796.

Sir,

I AM commanded by my Lords Commissioners of the Admiralty, to acquaint you that it is their Lordship's Intention to order a Court Martial, as soon as the same can conveniently be assembled, for the Purpose of enquiring into your Conduct, in not repairing to the West Indies agreeably to the Orders you have received from their Lordships on that Head.

I have the Honour to be

Sir,

your most obedient

humble Servant,

EVAN NEPEAN.

Honourable Vice Admiral Cornwallis,

Spithead.

Sir,

April 1st, 1796.

I REQUEST that you will be pleased to state to the Lords Commissioners of the Admiralty, that as they did not seem to think it necessary to call the Flag Officers from the different Ports to sit at my Court Martial, I hope (if their Lordships are still inclined to try me) that they will be pleased to bring it on before the Flag Officers depart, who are, I understood, preparing to sail. The Trial is of a Nature which does not require much Evidence, and therefore, as it cannot run out to any great Length, consequently will not retard the public Service. I should hope their Lordships will not find it necessary upon that Account to deprive me of as many Flag Officers as can legally be assembled in a Case of this Kind, which so materially concerns the Situation of that Rank of Officers, when offering to serve their Country.

I beg further to state to their Lordships, that I am not conscious of ever having acted in my public Capacity, with any View but that of forwarding His Majesty's Service in the best Manner I was able. I am far from supposing that my Judgment is always right, and I have been particularly sorry to find (as I expressed myself in a former Letter) that their Lordships were not pleased with my Conduct on the present Occasion. I have never expressed a Desire to have it enquired into by a Court Martial, least from a Variety of Circumstances attending the Case, the public Investigation of such a Matter might be hurtful at this Moment to the public Service; and I am ready to sacrifice my Feelings, upon their Lordships' Disapprobation having been made so publicly known, trusting to my general Character in a pretty constant Service, and of some Duration.

I really was much surprized when I received your Letter, acquainting me that it was their Lordships Intention to order me to be tried by a Court Martial, as I had by the Post before

H

received

received a Letter from very high Authority at the Board, saying, that from my Determination, which their Lordships (very erroneously) had concluded me to have taken of relinquishing the Appointment altogether, the Consequence would be, that I could not be continued in Employment.

I have the Honour to be, &c.

WM. CORNWALLIS.

Evan Nepean, Esq.

Admiralty-Office, 2d April 1796.

Sir,

I HAVE received and communicated to my Lords Commissioners of the Admiralty your Letter to me of Yesterday's Date, expressing your Desire, in case their Lordships should think fit to order you to be tried by a Court Martial, that such Court may be ordered to assemble before the Flag Officers depart, who you understand are preparing to sail, in order that you may not be deprived of as many Officers of that Rank as can legally sit at the said Court Martial; and I have their Lordships Commands to acquaint you that they have already ordered the Earl Howe, Admiral and Commander in Chief of the Fleet, to assemble a Court Martial on Monday the Fourth Instant, or as soon after that Time as can conveniently be done, for your Trial, and that they are equally desirous with you that a Court, as respectable as possible, should be assembled on this Occasion; but that Circumstances may possibly occur which may render the sailing of One or more of the Flag Officers from Portsmouth, before the Court can be assembled, a Measure of Necessity, notwithstanding which, there will then remain at Portsmouth a greater Number of Flag Officers than has ever sat upon the Trial of a Flag Officer.

I am,

Sir,

your most obedient

humble Servant,

EVAN NEPEAN.

The Honble. Vice Admiral Cornwallis.—Portsmouth.

[The Court was cleared, and several Hours were spent in Deliberation.]

The Court opened: The Vice Admiral brought in, and Audience admitted.

Being near Five o'Clock, the Court adjourned till To-morrow Morning, at Nine o'Clock.

8th of April.

THE Court met, according to Adjournment: The Vice Admiral was brought in, and Audience admitted.

The Court asked—Have you any Thing more to offer in your Defence than you have already stated?

No—I have nothing more to offer.

The Court was cleared.

After some Hours spent in Deliberation, the Court agreed upon the Sentence, which was drawn up, and signed.

The Court was opened.

The Vice Admiral was brought in by the Marshal, and Audience admitted. The Sentence was then pronounced by the Judge Advocate.

[See the Original, transmitted the same Day to the Secretary of the Admiralty.]

At a COURT MARTIAL assembled on Board His Majesty's Ship the Orion, in Portsmouth Harbour, the 7th April 1796, and continued by Adjournment on the 8th of the said Month.

P R E S E N T,

The Earl HOWE, Admiral of the Fleet, PRESIDENT,

Sir PETER PARKER, Bart.	-	-	} Admirals of the White.
R ^t . Hon ^{ble} ALEX. Lord BRIDPORT, K. B.	-	-	
GEORGE VANDEPUT, Esq;	-	-	} Vice Admirals of the White.
Sir ALAN GARDNER, Bart.	-	-	
JOHN COLPOYS, Esq;	-	-	Vice Admiral of the Blue.
Sir ROGER CURTIS, Bart.	-	-	} Rear Admirals of the Red.
HENRY HARVEY, Esq;	-	-	
RICH. RODNEY BLIGH, Esq;	-	-	
CHARLES MORICE POLE, Esq;	-	-	Rear Admiral of the Blue.
Captain CHARLES EDMUND NUGENT.			
. . . . CHARLES POWELL HAMILTON.			
. . . . EDMUND DODD.			

THE COURT, pursuant to an Order of the Lords Commissioners of the Admiralty, dated 31st March 1796, directed to the Earl Howe, proceeded to inquire into the Conduct of the Honourable William Cornwallis, Vice Admiral of the Red, and to try him upon a Charge "for returning to Spithead, as set forth in their said Order, and for Disobedience of their Order of 25 February last, in not proceeding to Barbadoes, as expeditiously as possible, consistent with the Security of the Transports, Store Ships, Victuallers, and Trade, under his Convoy; and also to try him for Disobedience of their Order to him of the 15th of March, by declining to proceed to Barbadoes in the Astræa, as therein directed;" and having heard the Evidence in Support of the Charge, and the Matters contained in the Papers before the Court, likewise what the Vice Admiral had to alledge in his Defence, and maturely and deliberately considered the same, the Court is of Opinion, that Misconduct is imputable to the Vice Admiral for not having proceeded to the West Indies either in the Mars or Minotaur (after the Damages the Royal Sovereign had sustained) but, in Consideration of the Circumstances of the Case, they do acquit him of any further Censure on that Account: The Court is also of Opinion, that the Charge of Disobedience of the Order of the Lords Commissioners of the Admiralty, of the 15th of March last, by declining to proceed to Barbadoes in the Astræa, is not proved; they therefore acquit him thereof; and he is hereby acquitted accordingly.

Geo. Jackson, Ju. Ad.,

HOWE,
P. PARKER,
BRIDPORT,
GEO. VANDEPUT,
A. GARDNER,
JN^o COLPOYS,
ROGER CURTIS,
HEN^y HARVEY,
R. R. BLIGH,
C. H. M. POLE,
E. NUGENT,
C. P. HAMILTON,
EDM^d DODD.

As a COURT MARTIAL, assembled on Board the Majesty's Ship the Orion, in Portsmouth Harbour, the 7th April 1796, and continued by adjournment on the 8th of the said Month.

THESE

The Hon HOWE, Admiral of the Fleet, PRESIDENT,

Admirals of the White.

Mr. Hon. Alexander B. B. B.

George Vandeventer, Esq. Vice-Admiral of the White.

— Mr. Alan Gardner, Bart.

John Corcoran, Esq. Vice President of the Board

[illegible]

Henry HAVART, JR.

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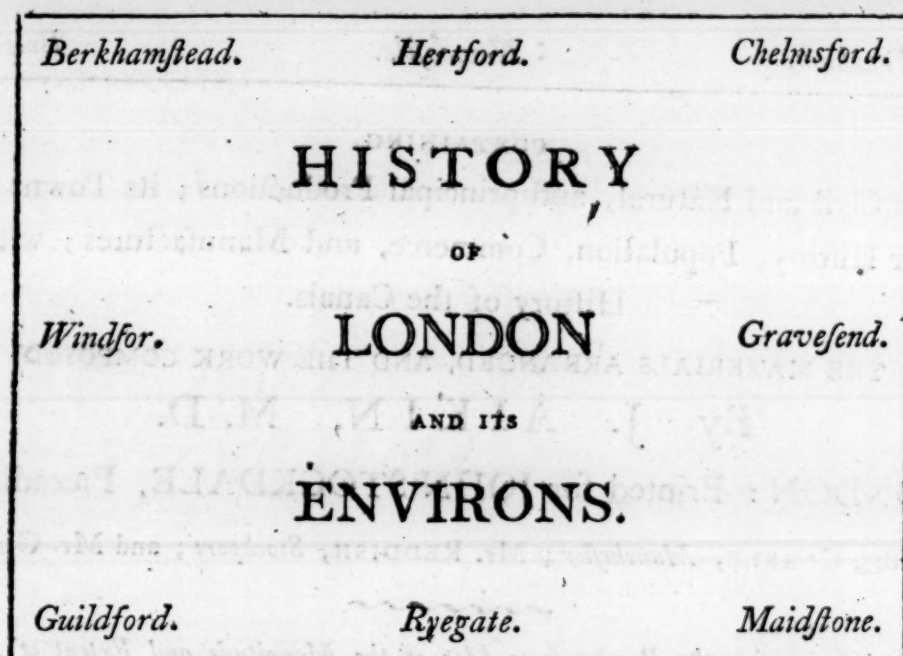
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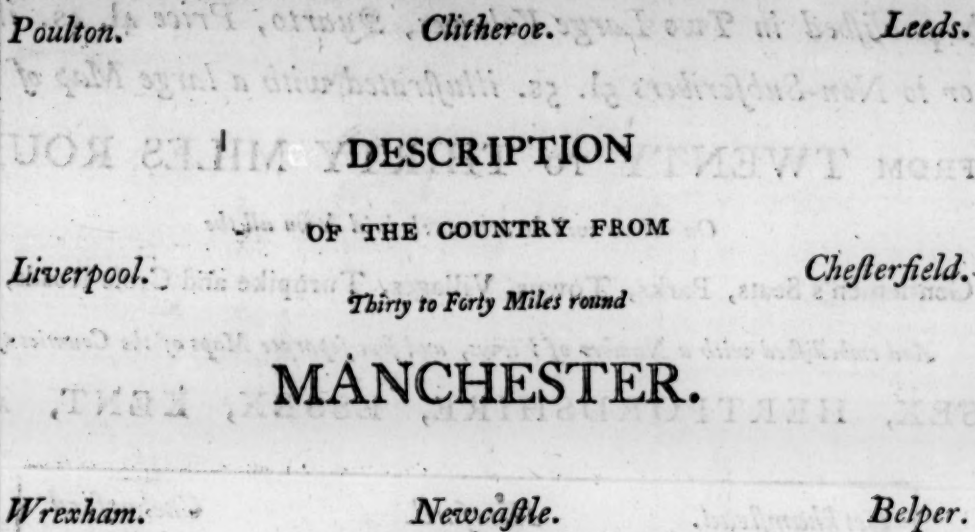


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